

The New York Times
Company



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May 5, 2017

VIA ECF

Hon. Debra Freeman
United States Magistrate Judge
United States District Court
500 Pearl St.
New York, NY 10007

Re: Thomas v. New York Times (17 civ 1165 (JMF)(DF))

Dear Judge Freeman:

I write on behalf of both parties in the above-referenced action. With the consent of the parties, Judge Furman referred the matter to Your Honor for mediation. (*See* Order, dated May 4, 2017, Dkt. No. 12.) Pursuant to that order, the parties are to exchange certain limited discovery in aid of settlement over the next three weeks and seek to engage in mediation by mid-June.

The case is brought pursuant to the Copyright Act. Plaintiff alleges that the Defendant published one of his photographs in The New York Times and on nytimes.com without his permission. Defendant alleges that permission to use the photograph was obtained.

In aid of settlement, Plaintiff has agreed to produce information about the licensing of the photograph (licenses granted, fees charged, the licensees, and the dates). Defendant has agreed to produce emails that were exchanged among The New York Times, Getty Images (a photo licensing agency), and the Daily News (which provided a copy of the photo to The New York Times) concerning the use of the photograph.

The parties are available in the afternoon of June 9 or June 15, 2017 for mediation before Your Honor. If those dates do not work, the parties can provide dates for later in June.

The parties have copies of Your Honor's mediation rules and will abide by the procedures set forth there unless directed otherwise by the Court.

We thank the Court for its assistance.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "D E McCraw", with a long horizontal flourish extending to the right.

David E. McCraw

cc: Richard P. Liebowitz, *Counsel for Plaintiff* (via email)